

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

David A. Diehl,

Petitioner,

No. CV-12-788-TUC-JGZ

ORDER

VS.

Craig Apker,

Respondent.

Pending before the Court is a Report and Recommendation issued by United States Magistrate Judge D. Thomas Ferraro that recommends granting Respondent's Motion to Dismiss and denying Petitioner's habeas petition filed pursuant to 28 U.S.C. §2241. (Doc. 21.) As thoroughly explained by Magistrate Judge Ferraro, Petitioner is not entitled to relief as he failed to exhaust his administrative remedies prior to filing his Petition. As Petitioner's objections do not undermine the analysis and proper conclusion reached by Magistrate Judge Ferraro, Petitioner's objections are rejected and the Report and Recommendation is adopted.

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1 Accordingly, IT IS HEREBY ORDERED as follows:

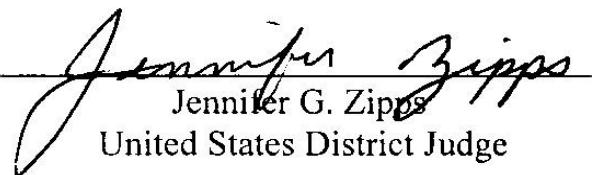
2 (1) The Report and Recommendation (Doc. 21) is accepted and adopted;

3 (2) The Motion to Dismiss filed by Respondent on January 1, 2013 (Doc. 12) is
4 GRANTED;

5 (3) Petitioner's §2241 Petition (Doc. 1) is denied and this case is dismissed without
6 prejudice for failure to exhaust;

7 (4) The Clerk of the Court shall enter judgment accordingly and close the file in this
8 matter.

9 Dated this 28th day of August, 2013.

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13 Jennifer G. Zips
14 United States District Judge
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